

224



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/891,493	06/26/2001	Jean-Luc Bonifas	PHFR 000066	9374

24737 7590 12/11/2003

PHILIPS INTELLECTUAL PROPERTY & STANDARDS  
P.O. BOX 3001  
BRIARCLIFF MANOR, NY 10510

EXAMINER

TRIMMINGS, JOHN P

ART UNIT	PAPER NUMBER
----------	--------------

2133

DATE MAILED: 12/11/2003

7

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/891,493

Applicant(s)

BONIFAS, JEAN-LUC

Examiner

John P Trimmings

Art Unit

2133

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 26 June 2001.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 June 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All   b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4, 6.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

Claims 1-10 are presented for examination.

#### ***Priority***

The examiner recognizes the applicant's foreign patent priority dated 06/27/2000.

#### ***Information Disclosure Statement***

The examiner has considered the art submitted by applicant in both IDS statements of 06/26/2001, and 2/22/2002.

#### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Art Unit: 2133

3. Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Molloy et al., U.S. Patent No. 6591382, and in view of Agrawal et al., U.S. Patent No. 6072990.

As per Claims 1, 4, 7, and 10:

In Molloy et al., the patent teaches a wireless communications system and method (see Abstract) composed of transmitters and receivers (column 15 lines 10-17), with a means of verifying the validity of data received (column 9 lines 10-16 and column 15 lines 12-14), and determining a Bit-Error-Rate (column 3 lines 1-14) including uncorrectable errors (column 9 lines 35-36). Molloy et al. also teaches a correction means (column 7 lines 21-37), a means to compute BER (Bit-Error-Rate) as in column 9 lines 1-29, and analysis of a maximum error rate as in column 9 lines 31-67, and column 10 lines 1-20. However, Molloy does not send error rate data to the remote device (transmitter). In an analogous art, Agrawal et al., a similar error rate profile called an average "Word-Error-Rate", is transmitted to the remote device (see Abstract). One with ordinary skill in the art at the time of the invention, motivated to place decision making at the transmitter site as suggested in Molloy et al. in column 12 lines 30-60, would combine the teachings of the two references. Also, in Agrawal et al., the transmitter receives the error quality data and determines a new error correction protocol (see Abstract and column 18 lines 7-13), therefore, Claims 1, 4, 7, and 10 are rejected.

As per Claims 2 and 8:

Claim 2 is dependent on Claim 1, Claim 8 is dependent on Claim 7, and each further specifies computation of the number of corrected bits in the corrected data. Molloy et al., in column 9 lines 1-24, column 11 lines 65-67, and column 12 lines 1-4 presents in a broad manner, means by which one would compute the BER for purposes of generating data representing the quality of data reception. One with ordinary skill in the art at the time of the invention, in arriving at a method to compute quality of service (BER), would understand that the teachings of Molloy et al. encompasses the narrow limitations in the applicant's claim, and so might apply any number of methods to arrive at a measurement of error correction quality. Therefore, Claims 2 and 8 are rejected.

As per Claims 3 and 9:

These claims, dependent on Claim 1 and 7, further describe a method of determining a maximum rate of errors based on all errors vs all of the received data. This error measurement is similar to the Packet Error Rate described in Molloy et al., column 9 lines 35-36, a ratio of all errors vs all data. Although the reference does not specify the math involved in arriving at this measurement, the outcome, PER is intrinsically the same as the Claims 3 and 9. One with ordinary skill in the art at the time of the invention, as suggested by Molloy et al., column 11 lines 65-67 and column 12 lines 1-4, would apply PER to measurements of error correction quality, therefore, Claims 3 and 9 are rejected.

As per Claim 5:

Claim 5, dependent on Claim 4, further limits the system wherein the transmitter has means to determine a new error correction protocol being transmitted to the

receiver. Agrawal et al. fully teaches this system in column 18 lines 7-37 and the Abstract, therefore, Claim 5 is rejected.

As per Claim 6:

Claim 6, dependent on Claim 1, specifies the receiver as being telephone equipment. Agrawal et al., in column 1 lines 7-10 describes and teaches the subject matter of the invention as "wireless telecommunications systems". Therefore, since wireless telecommunications equipment is a form of telephone equipment, Claim 5 is rejected.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John P Trimmings whose telephone number is 703-305-0714. The examiner can normally be reached on weekdays, 7:30 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Albert DeCady can be reached on 703-305-9595. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-2394.

John P Trimmings  
Examiner  
Art Unit 2133



jpt

Application/Control Number: 09/891,493

Page 6

Art Unit: 2133

*Eugene J. Lamare*  
*for*

Albert DeCady  
Primary Examiner